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SENATE

REPORT
99-232

M10 ORIGINAL

AMENDING THE OLDER AMERICANS ACT OF 1965

JANUARY 31, 1986.—Ordered to be printed

Filed under the authority of the order of the Senate of JANUARY 30 (legislative day, JANUARY 27), 1986

Mr. GRASSLEY, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 1858]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1858) to amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution; and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

SUMMARY

S. 1858 will authorize increased appropriations sufficient to provide an approximate 56.76 cent per meal reimbursement rate for fiscal years 1985, 1986, and 1987. This is the rate of reimbursement earlier established in fiscal year 1985 by the Department of Agriculture based on its estimate of the number of meals which would be served in that fiscal year and the amount of money which had been authorized and was available to be spent by the Department for the program in that year. To accomplish this, S. 1858 authorizes to be appropriated $127.8 million for fiscal year 1985, $144 million for fiscal year 1986, and $144 million for fiscal year 1987.

S. 1858 also includes a provision directing the Secretary of Agriculture and the Secretary of Health and Human Services to periodically inform state and area agencies on aging and meal providers of their eligibility to participate in the National Commodity Processing Program. Administered by the Food and Nutrition Service, U.S. Department of Agriculture, this program offers certain

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manufactured food items to eligible recipient agencies, including providers of meal programs assisted under the Older Americans Act, at substantially reduced prices. These manufactured food items contain designated surplus commodities furnished at no charge by the Department of Agriculture. The value of the donated surplus commodities used in these food items is then passed through to eligible recipient agencies thereby lowering the prices of these food items. The Committee believes the sponsors of senior nutrition programs assisted under the Older Americans Act may wish to consider participating in the National Commodity Processing Program as one way to make their limited program dollars go further.

The bill also includes a provision directing the Secretary of Agriculture to make more timely announcement to the states of the reimbursement levels the Secretary expects to use in calculating reimbursement to the states.

Background

The Secretary of Agriculture is required, by Section 311 of the Older Americans Act, to reimburse the states so many cents per meal for every meal that they serve under authority of the Act. Presently, the cents per meal is increased each year by a cost of living factor. The Congress has always included a limit on the dollars authorized for this program. Section 311 also requires the Secretary to reduce the cents per meal when the total amounts needed to meet the vouchers submitted by the states exceeds the authorized amounts. Because it is difficult to estimate the number of meals which will be served in any given fiscal year, the Department can find itself in a situation in which the number of meals served by the several states exceeds the estimates on which the cents per meal reimbursement is based, and therefore must reduce that reimbursement rate.

A reduction in the cents per meal provided by the Secretary, if announced during the fiscal year, will cause states to begin to reduce the number of meals that they are serving. If the reduction is announced after the fiscal year ends, which can and does happen because states are not required to submit vouchers until 90 days after the last day of the month in which a meal is served, states experience a shortfall in the money they had expected from the Department.

Committee Views

The Committee recognizes that the program authorized under Section 311 of the Older Americans Act is a valuable supplement to the meals programs authorized by Title III C1 and III C2 of the Act. This surplus commodities program enables the states to provide to older persons, at least 50 percent of whom are poor, more meals in congregate and home-delivered contexts than would otherwise be possible. The Committee is aware that after-the-fact reductions in the reimbursement level by the Secretary causes disorderly reductions in the number of meals which are served by the states. The Committee is also aware that the need for congregate and home-delivered meals provided under authority of the Older Amer-

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icans Act has increased, at least in part because of the introduction of the Medicare prospective payment system. Although there is not a definitive study of this, much impressionistic evidence and studies by the General Accounting Office and the Long Term care Gerontology Center of the University of Texas strongly imply that the prospective payment system has helped to increase the need for a variety of in-home and community services, including congregate and home-delivered meals.

The Committee thinks that the Department of Agriculture can provide more timely and regular estimates for the states of the reimbursement levels it will provide to them. The Committee therefore requires the Department to notify the states of any reductions in the cents per meal rate which may be required at the beginning of the second and third quarter of each fiscal year.

The Committee thinks that the Older Americans Act network can make better and more frequent use of other food programs available through the Department of Agriculture, and therefore is requiring that the Secretaries of the Department of Agriculture and Health and Human Services disseminate information on such programs to state agencies on aging, area agencies on aging, providers of meals to eligible older people, and national organizations representing providers of such meals. Regional offices of the Department of Agriculture should be instructed to assist in this effort. The Committee hopes that, through such efforts, the participation in such programs by the Older Americans Act network will increase.

Section-by-Section Analysis

Section 1 provides that this legislation be cited as the Older Americans Act Amendments of 1985.

Section 2 provides that the Secretary shall maintain an annually programmed level of assistance of not less than 56.76 cents per meal during fiscal year 1986 and during each fiscal year thereafter. This amount is to be adjusted on an annual basis for each fiscal year after September 30, 1986 to reflect changes in the series for food away from home of the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics of the Department of Labor. Section 3 stipulates that this cost of living adjustment shall not be made for fiscal years 1986 and 1987. Selection 2 also requires the Secretary to nortify the states, when it appears that the amount of money appropriated for the program will not be sufficient to pay the cents per meal established in accordance with Section (a)(4), of needed reductions in the cents per meal rate at the beginning of the second and third quarter of each fiscal year.

Section 3 authorizes to be appropriated $127.8 million for fiscal year 1985, $144 million for fiscal year 1986, and $144 million for fiscal year 1987. Cost of living increases required by Section 311 (a)(4) shall not be required for fiscal years 1986 and 1987.

Section 4 requires the Secretaries of the Department of Agriculture and Health and Human Services to disseminate to state agencies on aging, area agencies on aging, and providers of nutrition services assisted under Title III of the Older Americans Act information on other Federal commodity programs in which they may

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be eligible to participate, and on the procedures they may need to follow to so participate.

TEXT OF S. 1858 AS REPORTED

A BILL To amend the Older Americans Act of 1965 to increase the amounts authorized to be appropriated for fiscal years 1985, 1986, and 1987 for commodity distribution, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans Act Amendments of 1985".

COMMODITY DISTRIBUTION LEVEL OF ASSISTANCE PER MEAL

SEC. 2. (a) Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) is amended—

(1) by striking out "15 cents" and all that follows through "30 cents per meal for", and inserting in lieu thereof "56.76 cents per meal during fiscal year 1986 and during", and

(2) by striking out "June 30, 1975" and inserting in lieu thereof "September 30, 1986".

(b) Section 311(c)(2) of such Act is amended by inserting "(A)" after paragraph (2) and by adding at the end thereof the following new paragraph:

"(B) In each fiscal year in which the Secretary of Agriculture determines that the amount appropriated under paragraph (1) in such fiscal year is not likely to be sufficient to pay the cents per meal established in accordance with subsection (a)(4) of this section (as modified by division (ii) of subparagraph (A) of subsection (c)(1)), The Secretary of Agriculture shall prepare, based upon the best estimates available, the amount of the reductions required in the cents per meal level, and shall so notify the States of such reductions at the beginning of the second and third quarter of each fiscal year.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) There is authorized to be appropriated $127,800,000 for fiscal year 1985, in order to provide reimbursement at the level of 56.76 cents per meal during fiscal year 1985, determined under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal year. For purposes of subsections (a) and (b) of section 311 of such Act, the sum authorized to be appropriated by this subsection shall be deemed to have been authorized to be appropriated for fiscal year 1985 by section 311(c)(1) of such Act. For purposes of subsection (c)(1)(B) of such Act, the date of the enactment of this Act shall be deemed to be the last day of each quarter of fiscal year 1985 for which reimbursement is claimed.

(b) Subparagraph (A) of section 311(c)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030a(c)(1)(A)) is amended to read as follows:

"(A)(i) There are authorized to be appropriated $144,000,000 for fiscal year 1986 and $144,000,000 for fiscal year 1987 to carry out this section (other than subsection (a)(1)).

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"(ii) The provisions of the second and third sentences of subsection (a)(4) shall not apply for fiscal years 1986 and 1987.".

INFORMATION REGARDING FEDERAL FOOD PROCESSING PROGRAMS

SEC. 4. Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended by adding at the end thereof the following new subsection:

"(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

(1) the existence of any Federal commodity processing program in which such State agencies, area agencies, and providers may be eligible to participate; and

(2) the procedures to be followed to participate in the program.".

EFFECTIVE DATE

SEC. 5. This Act and the amendments made by this Act shall take effect on October 1, 1985.

HEARINGS

No hearings were held by the Subcommittee on Aging or the Committee on Labor and Human Resources specifically on this issue in this Congress.

VOTES IN COMMITTEE

S. 1858 was polled by the Committee on Labor and Human Resources on December 9 and 10, 1985. The Committee agreed to the poll 16–0, and to the bill 15–0, with one abstention. The Committee also agreed by poll to request a waiver from terms of the Budget Control and Impoundment Act of 1974 so as to be able to proceed to consideration of S. 1858. On the waiver, the Committee agreed 16–0 to the poll and 15–0–1 to the waiver.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 23, 1986.

Hon. ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 1858, the Older Americans Act Amendments of 1985, as ordered reported by the Senate Committee on Labor and Human Resources on December 17, 1985.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

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CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JANUARY 23, 1986.

1. Bill number: S. 1858.
2. Bill title: Older Americans Act Amendments of 1985.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on December 17, 1985.
4. Bill purpose: The purpose of this bill is to increase the amounts authorized to be appropriated for the Elderly Nutrition Program for fiscal years 1985, 1986 and 1987. The bill would also freeze the level of assistance at not less than 56.76 cents per meal for 1985, 1986 and 1987.
5. Estimated cost to the Federal Government:

[In millions of dollars]

	Fiscal year				
	1986	1987	1988	1989	1990
Increase in authorization level	7	12			
Estimated outlays	6	11	2		

The costs of the bill fall within budget subfunction 605.

Basis of Estimate.—S. 1858 would raise the authorization levels for the Elderly Nutrition Program to $127.8 million in 1985, $144 million in 1986 and $144 million in 1987. There are no costs associated with the 1985 authorization level because the fiscal year has already ended. The new 1986 authorized level is $7 million higher than the $136.973 million appropriated for the program in the Continuing Resolution for 1986 (P.L. 99-190). (This appropriated level effectively raised the 1986 authorization $11 million above the statutory authorized level of $125.9 million). The 1987 level in this bill is $12 million above the current law level of $132 million.

The 1986 appropriation level may be reduced by sequester under the Balanced Budget and Emergency Deficit Control Act of 1985. Costs of the bill are estimated to be $13 million rather than $7 million in 1986 if measured against the estimated post-sequester funding level.

Estimated outlays assume full appropriation of authorized levels for 1986 and 1987.

6. Estimated cost to State and local government: State and local governments would receive $19 million more in federal reimbursements than under current law.
7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Julie Isaacs.
10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

In compliance with paragraph 11(b) of Senate Rule 26, the Committee has determined that the bill would not increase the regulatory burden on State and Area Agencies on Aging.

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FAMILY FAIRNESS AND IMPACT STATEMENT

The Committee feels that these amendments to the Older Americans Act will have no additional effect on families. Essentially, the structure of the program is retained without change and the new authorization levels should allow moderate growth in the program.

CHANGES IN EXISTING LAW

In compliance with rule XXVI paragraph 12 of the Standard Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

* * * * * * *

AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodities Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than *56.76* [cents per meal during fiscal year 1986 and] each fiscal year thereafter. The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after *September 30, 1986,* to reflect changes in the series for food away from home of the Consumer Price Index for all Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such

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State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(c)(1)(A) *(i) There authorized to be appropriated $144,000,000 for fiscal year 1986 and $144,000,000 for fiscal year 1987 to carry out this section (other than subsection (a)(1)).*

(ii) The provisions of the second and third sentences of subsection (a)(4) shall not apply for fiscal years 1986 and 1987.[1]

(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.

(2)*(A)* In any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriations for that fiscal year.

(B) In each fiscal year in which the Secretary of Agriculture determines that the amount appropriated under paragraph (1) in such fiscal year is not likely to be sufficient to pay the cents per meal established in accordance with subsection (a)(4) of this section (as modified by division (ii) of subparagraph (A) of subsection (c)(1)), the Secretary of Agriculture shall prepare, based upon the best estimates available, the amount of the reductions required in the cents per meal level, and shall so notify the States of such reductions at the beginning of the second and third quarter of each fiscal year.

(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

(1) the existence of any Federal commodity processing program in which such State agencies, area agencies, and providers may be eligible to participate; and

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[1] Section 3 (a) of the Older Americans Act Amendments of 1985 authorizes $127,800,000 for fiscal year 1985: "There is authorized to be appropriated $127,800,000 for fiscal year 1985, in order to provide reimbursement at the level of 56.76 cents per meal during fiscal year 1985, determined under Section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), for meals served under section 311 of such Act in such fiscal year. For purposes of subsections (a) and (b) of section 311 of such Act, the sum authorized to be appropriated by this subsection shall be deemed to have been authorized to be appropriated for fiscal year 1985 by section 311(c)(1) of such Act. For purposes of subsection (c)(1)(B) of such Act, the date of the enactment of this Act shall be deemed to be the last day of each quarter of fiscal year 1985 for which reimbursement is claimed."

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(2) the procedures to be followed to participate in the program.

EFFECTIVE DATE

This Act and the amendments made by this Act shall take effect on October 1, 1985.

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